

## Message Text

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ACTION EA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-03 H-01 INR-05 L-02

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R 210055Z OCT 74

FM AMCONSUL SYDNEY

TO SECSTATE WASHDC 5843

INFO AMEMBASSY CANBERRA

AMCONSUL MELBOURNE

C O N F I D E N T I A L SYDNEY 2234

E.O. 11652: GDS

TAGS: PFOR, AS

SUBJ: WILFRED BURCHETT DEFAMATION SUIT

REF: CANBERRA 6640

SUMMARY: BASED ON SEPARATE CONVERSATIONS BY CONGEN HANNAH WITH EX-DLP SENATOR, JACK KANE, AND A KEY WITNESS, USAF COL. W. M. MAHURIN (RETIRED), IT APPEARS TRIAL WILL OPEN ON SCHEDULE OCTOBER 21 AND KANE IS CONFIDENT HIS WELL-SUPPORTED DEFENSE WILL WIN.

1. KANE TOLD HANNAH OCTOBER 18 THAT IN PAST TEN DAYS HIS FORMER UNCERTAINTY (SEE REFTTEL) HAS BEEN REPLACED BY CONFIDENCE THAT "WE WILL HIT BURCHETT SO HARD HE WILL NEVER RAISE HIS HEAD AGAIN."

2. KANE'S CASE IS BASED ON THREE MAIN PILLARS: (A) HISTORY OF BURCHETT'S POST-WAR CAREER, HEAVILY CONCENTRATED IN COMMUNIST COUNTRIES; (B) QUOTATIONS FROM TESTIMONY GIVEN IN THE U.S. BY KGB DEFECTOR, KROTKOV; AND (C) A PROCESSION OF WITNESSES PREPARED TO TESTIFY THAT AS PRISONERS OF COMMUNISTS IN NORTH KOREA OR IN NORTH VIETNAM, THEY HAD BEEN BROW-BEATEN AND THREATENED IN INTERVIEWS WITH BURCHETT AND IN SOME CASES HAD  
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BEEN SUBJECTED TO COMMUNIST MIS-TREATMENT AS RESULT OF BURCHETT

REPORTS TO CAPTORS.

3. ONE STAR WITNESS IS RETIRED USAF COL. W. M. MAHURIN WHO WAS U.S. POW IN NORTH KOREA. MAHURIN PERSONALLY EXPERIENCED INTERROGATIONS AND THREATS BY BURCHETT AND KNOWS OF OTHER SIMILAR CASES WHICH RESULTED IN COMMUNIST MISTREATMENT. IN CONVERSATION WITH HANNAH, MAHURIN ASSERTED THAT WHEREAS BURCHETT COULD HAVE USED HIS LIAISON WITH COMMUNISTS TO EASE THE LOT OF POWS, HE DID THE REVERSE AND ACCORDINGLY BEARS PART OF THE BLOW FOR SOME 800 DEATHS.

4. MAHURIN SAYS KANE HAS ON TAP IN SYDNEY A NUMBER OF OTHER WITNESSES INCLUDING A BRITISH EX-OFFICER (STILL PSYCHOLOGICALLY SUFFERING EFFECTS OF MIS-TREATMENT). A U.S. ARMY CAPTAIN AND SEVERAL NORTH VIETNAMESE WHO DEFECTED TO THE SOUTH.

5. ACCORDING TO MAHURIN, BURCHETT HAS BEEN OUT OF AUSTRALIA BUT IS EXPECTED TO RETURN THIS WEEKEND. MAHURIN AND KANE ARE PERPLEXED BY BURCHETT'S SEEMING LACK OF CARE IN PREPARING HIS CASE AND HAVE CONSIDERED POSSIBILITY BURCHETT MIGHT FAIL TO APPEAR AND THUS FORFEIT THE CASE. THIS WOULD MAKE HIM LIABLE FOR KANE'S COSTS IN PREPARING CASE WHICH ARE CONSIDERABLE AND WOULD MAKE IT DIFFICULT FOR BURCHETT TO RETURN LATER. HENCE, THEIR JUDGMENT IS HE WILL APPEAR. ON OTHER HAND, MAHURIN IS CONCERNED OVER CASUAL ATTITUDE OF KANE'S COUNSEL WHO HAS ONLY INTERVIEWED HIM ONCE, THUS SUGGESTING POSSIBILITY OF POOR PREPARATION OF CASE.

6. KANE'S COST MUST BE HEAVY INCLUDING MAHURIN'S ROUND TRIP TICKET FROM CALIFORNIA AND HIS HOTEL BILL AT WENTWORTH AS WELL AS TRAVEL AND HOTELS FOR OTHER WITNESSES FROM ABROAD. DURING EXTENDED VISIT TO U.S. IN SUMMER, KANE WAS ADVISED TO INCORPORATE A FUNDING ENTITY WHICH COULD LEGALLY ACCEPT CONTRIBUTIONS FROM FRIENDLY ORGANIZATIONS (AUSTRALIA LAW IS STRICT ON PERSONAL SOLICITATION OF DEFENSE FUNDS), BUT KANE APPARENTLY DID NOT DO IT. NEVERTHELESS, HE IS OBVIOUSLY GETTING SUPPORT.

7. MAHURIN CONFIRMED HANNAH'S IMPRESSION THAT WHILE THE CASE WILL BE CONDUCTED STRICTLY ON THE LEGAL ISSUES, KANE AND HIS FRIENDS ARE ANTICIPATING CONSIDERABLE FAVORABLE  
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POLITICAL SPILL-OVER AS RESULT OF REVIVING AND AIRING AGAIN THE OLD COLD WAR ISSUES OF THE EARLY 1950S, WHICH SPAWNED THE DLP. KANE PRIVATELY SPECULATED THE TRIAL MIGHT LAST THREE WEEKS.  
MARSHALL

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